

**“CLIENT-CENTERED” IN A NEW ERA:
A COMMITMENT TO FULL ACCESS AND “EFFECTIVE FUTURES”**

By Martha Bergmark

In 1995 when LSC issued its call for state planning, with its focus on a state-based approach to legal services delivery, it was responding to a crisis precipitated by the Gingrich Congress’s threat to put federal funding for legal services on a “glide path to elimination,” and to devolve many social welfare programs for low-income people to state and local governments. What we couldn’t know then, but do know now, is that the crisis of national funding and restrictions six years ago would be a catalyst for a necessary transformation of our approach to fulfilling the promise of equal justice.

In the pre-1995 era, we focused on priority setting as a primary mechanism for insuring that our programs were as responsive as possible in their respective service areas to clients’ most pressing legal needs. We sought to secure “client involvement” in priority setting processes that included a variety of mechanisms to determine the legal needs of low-income individuals and communities. Program boards of directors, one-third of whose members were “client-eligible,” had final authority to approve program priorities for their service areas. LSC-funded programs still follow these long-established procedures, as required by LSC Act and regulations.

These processes were designed to parcel out resources that were – and in many states still are – pitifully inadequate to address the scale of the legal need. In this program-centered framework, we did not define our responsibility as fulfilling the promise of equal justice. We defined ourselves as stewards of the resources allocated toward that end by others, primarily the federal government. It was our job – the job of program boards of directors composed of clients as well as lawyers – to inform ourselves

about the most pressing legal needs of low-income clients and communities and to set program priorities to address those needs. We urged the Congress to view it as their job to ante up the resources to meet the promise of justice. If and when they decided to do so, we stood ready to apportion those resources as efficiently and effectively as possible.

In the seventh year of our transformative process, we are coming to see our job differently. We are not just the stewards of resources allocated by others for the purpose of doing as much as we can to meet pressing legal needs, to slice up a given-sized pie as fairly as possible. We – and the “we” has grown to include powerful new allies – are also the leaders who see the need to create systems that provide full and equal access to civil justice in our states and communities. In this new role, we assume the responsibility to define what we mean by meeting the promise of justice, to determine what it will take to put full access systems in place, and to declare our intention to build them.

Our successes over the past few years are empowering us to step into this new role, as well as to see the elements of such full access systems begin to emerge in many states and communities. In just 10 years, from 1990 to 2000, while LSC funding stagnated, legal aid funding grew from \$400 million to almost \$800 million. The LSC percentage of total funding fell from 75% in 1990 to 35% in 2000. Chief justices of state supreme courts, well-placed legislators and bar leaders have embraced our cause, and we are partnering with a more diverse set of players than ever before to grow and diversify resources and to create delivery systems that broaden access. Our community’s technology leaders are, in the lingo of the tech world, the “early adopters” of new computer and telecommunications technologies that are benefiting low-income people and communities and their advocates by providing information, building advocacy

communities and actually expanding access to justice. Our communications research is helping us develop the messages necessary to convey the rightness and smartness and value of putting full-access systems in place.

Our successes have also helped us appreciate the scale that will be necessary to achieve the goal of full and equal access and to see what we will need to add to what we already have in place. We know that our systems must grow to meet anywhere from four to six times the number of clients we now serve.

Ever since the NLADA/CLASP Project for the Future of Equal Justice first declared its intention, almost four years ago, to “expand the partnership of responsibility for equal justice,” we included “clients as advocates for themselves” in our oft-repeated listing of equal justice partners. Our work on delivery innovations – telephone intake, advice and brief service models (“hotlines”); holistic advocacy; “unbundled” or “discrete task” representation and assisted self-representation -- persuades us that now is the time for a fresh look at new approaches to “client-centeredness.” That is why I am excited about LSC’s upcoming conference on “Creating Client-Centered State Justice Communities” and welcome the opportunity it will provide to focus on “client-centeredness” in this new era of commitment to building systems that provide full and equal access to justice.

In the next few pages, I will focus on two approaches to service delivery that I believe deserve attention as essential components of “client-centered” full access systems. One is an approach that emerged from the Tennessee state planning process, and which the Tennessee planners have characterized as working toward “effective

futures for clients.” The other is “community oriented lawyering,” an approach pioneered by public defender programs and others whose work involves public safety.

Effective Futures for Clients and Communities

Last year, Tennessee state planners adopted a mission of “meaningful and equal access to the legal system and legal assistance for *all* low income persons present in Tennessee.” This mission, they said, encompassed two broad goals: 1) To “grow the statewide system to provide the access needed: *more clients, more services, more resources,*” and 2) To “improve those specific conditions adversely affecting the lives of the poor: *effective futures for clients are defined and delivered.*”

This second goal and Tennessee’s strategy to achieve it create the possibility of dramatic, statewide changes for the better by identifying and correcting specific adverse conditions confronted by individuals and communities. For example, one of the “effective futures” Tennessee planners have in their sites is a future in which Tennessee school children no longer lose ground at school or lose sleep at night because they are in dental pain. Although poor children have a right, under Medicaid, to dental care, they are not receiving the service promised by federal and state law in most Tennessee communities. A few communities have taken on this problem and solved it, so an effective future is possible statewide.

By creating a strategic advocacy collaborative involving a broad group of public service organizations and engaging in a wide range of advocacy activities, Tennessee will expand the scale of its strategic advocacy (creating sufficient capacity to work toward a number of “effective futures” at a time), correct specific adverse conditions, and build public knowledge and support by demonstrating the benefits and payoffs of such

advocacy. Strategic advocacy of this kind is preventive and reformative. It is a force for improvement of public and private institutions. It is also “client-centered” in its focus on specific, measurable results which demonstrably improve the lives of low-income people. The Tennessee planners might have set a goal of “more impact work” as an essential component of the delivery system. Framing it that way would have placed the emphasis on the advocates and their work. Instead, they made the focus a “client-centered” one, targeting outcomes – “effective futures” – for low-income people and communities.

Community Oriented Lawyering

In the 1980’s, a few police departments began to experiment with “community policing,” a new approach to public safety that shifted away from the traditional handling of individual criminal cases and toward affirmative problem solving in partnership with communities. Roger Conner, working last year as a visiting fellow at the Department of Justice’s National Institute of Justice, noted that a similar shift occurred in the 1990’s among lawyers whose work affects public safety. These innovative attorneys – prosecutors, county and municipal lawyers, public defenders – were moving from an exclusive focus on case processing toward working with neighborhood residents to solve community problems.

Conner has found and written about numerous examples of this phenomenon and the practitioners across the country of what he calls “community oriented lawyering.” His writings document the successes of “community prosecutors” in Boston, Washington, D.C., and Portland, Oregon, working with community residents to shut down drug markets, reduce homicides and close crack houses. In Baltimore, the city’s Housing Department abandoned its focus on a backlog of 10,000 outstanding code

violations and reorganized the legal staff along geographic lines in order to work more effectively with neighborhood leaders.

Conner believes that one of the most promising developments in this arena is the emergence of public defenders who focus on outcomes rather than cases. Jim Hennings, Director of the Metropolitan Defender Service in Portland, Oregon, explained his program's decision to dedicate scarce resources to addiction and education specialists as follows: "The same people kept cycling through my office, and the only change was the sentences got longer. My goal now is for the client to be better off after he leaves than when he came in, independent of the disposition of the criminal case." In Nashville, Tennessee, the public defender program operates its own drug treatment program in jail and has a case manager to assist mentally ill clients after their release.

Two defender programs in New York City, Neighborhood Defender Service of Harlem and Bronx Defenders, were designed specifically to generate more positive and lasting outcomes for clients by using a teamwork approach to case representation and problem solving. Their representation model incorporates a personal recovery plan for each client, the involvement of social workers, and follow-through with the client and his family after disposition of the criminal case and upon his return to the community. These programs are also involved in a variety of community education and problem-solving efforts. They specifically describe their approach as "client-centered," "community-centered," "holistic," and they identify public safety and healthier communities as outcomes they are working to achieve.

Conner summarizes some of the common features of community oriented lawyering and compares them to traditional law practice in the table below. The web

version of Conner's forthcoming paper, "Community Oriented Lawyering," can be found at www.communitylawyering.org, and his magazine article on the topic is "Problem Solving Lawyers," National Institute of Justice Journal, January 2000.

TRADITIONAL PRACTICE AND COMMUNITY LAWYERING COMPARED

	Traditional – Case Orientation	New – Community Orientation
Unit of work	<ul style="list-style-type: none"> • Crimes • Cases • Complaints 	<ul style="list-style-type: none"> • People • Problems • Relationships
Definition of success	<ul style="list-style-type: none"> • Win cases • Uphold rule of law • Be fair and impartial 	<ul style="list-style-type: none"> • Reduce severity of the problem • Improve quality of life for individuals and micro-communities • Restore relationships
Community role	<ul style="list-style-type: none"> • Source of clients and witnesses • Complainants • Political support 	<ul style="list-style-type: none"> • Influences priorities • Helps define what constitutes success • Necessary partner
Extent of inter-agency collaboration	<ul style="list-style-type: none"> • Limited to high-visibility cases, "issue <i>du jour</i>" 	<ul style="list-style-type: none"> • Frequent, intensive
Tools	<ul style="list-style-type: none"> • Investigation • Negotiation • Litigation 	<ul style="list-style-type: none"> • Community mobilization • Training (e.g. police, citizens) • Civil remedies • Negotiated voluntary compliance • Motivating agency cooperation
Favorite question	<ul style="list-style-type: none"> • What happened? 	<ul style="list-style-type: none"> • What's happening?

The community defender approaches described above will be familiar to the pioneers and practitioners of holistic advocacy in the civil legal aid community. Their work suggests opportunities for broader justice partnerships than we have yet explored and creates possibilities for a wider range of “effective futures” for clients and communities than we have yet envisioned. I look forward to the opportunity LSC’s Client-Centered Conference will present to advance our work in this important area.